DEPARTM

38 CFR Part 8

RIN 2900-AR29

National Service Life Insurance Premium Payment and Loan Amendment

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its National Service Life Insurance regulations to offer Service-Disabled Veterans' Insurance policyholders the option of remitting premiums for government life insurance coverage only on a monthly or annual basis. VA also proposes to increase the amount that Veteran policyholders are eligible to borrow against the value of their life insurance policies and to adjust the interest rates charged for fixed-rate loans in certain circumstances.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments may be submitted through www.Regulations.gov. Comments should indicate that they are submitted in response to "RIN 2900-AR29 – National Service Life Insurance Premium Payment and Loan Amendment." Comments received will be available at regulations.gov for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Paul Weaver, Insurance Specialist, Department of Veterans Affairs Insurance Service (310/290B), 5000 Wissahickon

Avenue, Philadelphia, PA 19144, (215) 842-2000, ext. 4263. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under the authority of 38 U.S.C. 1901-1929, VA currently administers four distinct life insurance programs: National Service Life Insurance (NSLI), Veterans' Special Life Insurance (VSLI), Veterans' Reopened Insurance (VRI), and Service-Disabled Veterans' Insurance (S-DVI). As of January 31, 2021, these life insurance programs are providing insurance coverage under 458,424 policies owned by Veterans.

1. **Payment of Premiums for Programs Issuing New Policies.**

Section 1908 of title 38, U.S.C., requires VA to "prescribe the time and method of payment of the premiums on insurance" for those programs by issuing regulations. VA has implemented this authority in 38 CFR 8.2(c). Section 8.2(c) requires Veteran policyholders to pay premiums on a monthly basis, with the option of paying premiums on a quarterly, semi-annual, or annual basis if the premiums are paid in advance. NSLI, VSLI, and VRI are closed to new issues, and VA does not propose to modify any premium paying requirements pertaining to these life insurance programs. However, S-DVI remains open to new issues and is currently providing coverage to Veterans with service-connected disabilities. More than 275,000 Veteran policyholders are insured under S-DVI, and less than 3,000 pay premiums on a quarterly or semi-annual basis. Because very few S-DVI policyholders are paying premiums on a quarterly or semi-annual basis and these payment options add administrative complexity and program costs associated with calculating premiums due for policyholders who elect these payment options, VA proposes to eliminate these two payment options for policyholders receiving future issue of S-DVI. Moreover, research shows that lapsed rates tend to increase with the number of premium payments made each year, with the notable exception of monthly payment modes. *See, e.g.,* Cathy Ho & Nancy Muise, *U.S. Individual Life Persistency: Guaranteed & Simplified Issue – A Joint Study Sponsored by Soc'y of Actuaries & LIMRA* 16 (2013), https://www.soa.org/globalassets/assets/Files/Research/Exp-Study/research-2013-gisi-study.pdf (last visited Aug. 5, 2021). Thus, we propose to amend § 8.2(c) to require policyholders receiving future issue of S-DVI to submit premiums on the policy monthly due date or in advance on an annual basis. Veterans who were previously insured under S-DVI will retain the option of paying premiums on a monthly basis or in advance on a quarterly, semi-annual, or annual basis. The proposed amendment is consistent with 38 CFR 8.4, which allows Veteran policyholders to pay premiums by a monthly deduction from disability compensation or certain other payments due from VA. The proposed rule would also apply to Veteran policyholders who become insured under 38 U.S.C. 1922B(a)(1). (On January 1, 2023, VA will begin issuing policies under a new service-disabled Veterans' insurance program, authorized by section 2004(a)(1) of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, Public Law 116-315, and codified at 38 U.S.C. 1922B.) In addition, we would add a paragraph in § 8.2(c) to make clear that NSLI, VSLI, and VRI policyholders, as well as current S-DVI policyholders, may continue to pay premiums on a monthly basis or in advance on an annual, semi-annual, or quarterly basis.

2. Adjust Policy Loan Amounts and Interest Rates.

Section 1906 of title 38, U.S.C., provides VA discretion to provide reasonable and practicable provisions pertaining to cash and loan values by publishing regulations. In 38 CFR 8.13(a), VA states that "the United States will lend to the insured . . . any amount which will not exceed 94 percent of the [policy's] reserve." Standard insurance industry practice allows policyholders access to the full cash value of their policies. To align with standard insurance industry practice, VA proposes to provide Veteran policyholders with access to the full cash value that policies accrue over the time period in which Veteran policyholders pay premiums for life insurance coverage. Thus, VA proposes to remove from § 8.13(a) the 94 percent limit on the amount that Veteran policyholders may borrow.

In addition, managing multiple loans for a single policyholder is administratively complex and costly. Furthermore, it would be cost prohibitive to modify current technology to support multiple loans for one policyholder. Thus, VA proposes to amend § 8.13(d) to require Veteran policyholders with existing fixed-rate loans who want to apply for additional loans on their policies to refinance these existing fixed-rate loans into new variable-rate loans subject to a new loan rate equal to variable loan rates available from VA at the time of the loan application. This practice is acceptable within the insurance industry and would allow VA to offer loans against the remaining available cash value of Veterans' life insurance coverage, and reduce administrative complexity and costs associated with managing multiple loans for a single policyholder.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This proposed rule would directly affect only individuals and would not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.030, Life Insurance for Veterans - Face Amount of

New Life Insurance Policies Issued, and 64.031-Life Insurance for Veterans - Direct Payments for Insurance.

List of Subjects in 38 CFR Part 8

Disability benefits, Life insurance, Loan programs-veterans, Military personnel, Veterans.

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved this document on September 14, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director,

Office of Regulation Policy & Management,

Office of the Secretary,

Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 8 as set forth below:

PART 8—NATIONAL SERVICE LIFE INSURANCE

1. The authority citation for part 8 continues to read as follows:

Authority: 38 U.S.C. 501, 1901-1929, 1981-1988.

2. Amend § 8.2 by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

§ 8.2 Payment of premiums.

* * * * *

(c) * * *

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(2) Policyholders may pay premiums in advance on an annual basis.

(3) Policyholders insured as of [EFFECTIVE DATE OF THE FINAL RULE] may pay premiums in advance on an annual, semi-annual, or quarterly basis.

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3. Amend § 8.13:

a. In paragraph (a), by removing “which will not exceed 94 percent” and adding “policy” before “reserve” in the first sentence; and

b. By revising paragraph (d).

The revision reads as follows:

§ 8.13 Policy loans.

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(d) Notwithstanding any other provisions of this section, the variable loan rate shall not exceed 12 percent or be lower than 5 percent per annum. For policyholders with an existing fixed-rate loan who subsequently apply for an additional loan on the same policy, the existing fixed-rate loan shall be refinanced into the new variable-rate loan at the prevailing variable rate at the time of the new loan application.

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